

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-10986 NG

ULYSSES RODRIGUEZ CHARLES,
Plaintiff,

v.

CITY OF BOSTON, et. al.,
Defendants.

**DEFENDANT STANLEY BOGDAN'S ANSWER TO THE PLAINTIFF'S COMPLAINT
WITH AFFIRMATIVE DEFENSES AND JURY DEMAND**

NOW COMES Stanley Bogdan, Defendant in the above-entitled action (hereinafter, 'Bogdan'), and hereby answers the Complaint of the Plaintiff, as follows:

INTRODUCTION

1. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph one of the Complaint.
2. Defendant Bogdan states that paragraph two is a legal conclusion, and therefore no response is required. To the extent paragraph two requires an answer, it is denied.
3. Defendant Bogdan states that paragraph three is a legal conclusion, and therefore no response is required. To the extent paragraph three requires an answer, it is denied.
4. Paragraph four contains a statement of relief sought by the Plaintiff, and therefore no response is required. To the extent an answer is required, it is denied.

JURISDICTION AND VENUE

5. Defendant Bogdan states that paragraph five contains the Plaintiff's statement of jurisdiction, and therefore requires no response.
6. Defendant Bogdan states that paragraph six contains the Plaintiff's statement of venue, and therefore requires no response.

PARTIES

7. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph seven of the Complaint.

8. Defendant Bogdan admits the allegations contained in paragraph eight of the Complaint.
9. Defendant Bogdan admits that Defendant was a member of the Boston Police Department. The remaining allegations contained in paragraph nine are legal statements not requiring a response.
10. Defendant Bogdan admits that Defendant Keough was a member of the Boston Police Department. The remaining allegations contained in paragraph ten are legal statements not requiring a response.
11. Defendant Bogdan admits that Defendant Rufo was a member of the Boston Police Department. The remaining allegations contained in paragraph eleven are legal statements not requiring a response.
12. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph twelve of the Complaint.
13. Defendant Bogdan admits that he was a senior criminalist working for the Boston Police Department's crime laboratory. The remaining allegations contained in paragraph thirteen are legal statements not requiring a response.
14. Defendant Bogdan states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph fourteen of the Complaint.
15. Defendant Bogdan admits that Charles Campo was an assistant district attorney with the Suffolk County District Attorney's Office. The remaining allegation contained in paragraph fifteen is a legal statement not requiring a response.
16. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph sixteen of the Complaint.
17. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph seventeen of the Complaint.
18. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph eighteen of the Complaint.

JURY TRIAL DEMAND

19. Defendant Bodgan states that the statement contained in paragraph nineteen is a statement of Plaintiff's jury demand to which no response is required.

FACTS

The Crime

20. Defendant Bodgan admits the allegations contained in paragraph twenty of the Complaint.
21. Defendant Bodgan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph twenty-one of the Complaint.
22. Defendant Bodgan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph twenty-two of the Complaint.
23. Defendant Bodgan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph twenty-three of the Complaint.
24. Defendant Bodgan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph twenty-four of the Complaint.

Prior Boston Police Encounters

25. Defendant Bodgan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph twenty-five of the Complaint.
26. Defendant Bodgan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph twenty-six of the Complaint.
27. Defendant Bodgan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph twenty-seven of the Complaint.
28. Defendant Bodgan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph twenty-eight of the Complaint.
29. Defendant Bodgan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph twenty-nine of the Complaint.
30. Defendant Bodgan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph thirty of the Complaint.

31. Defendant Bodgan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph thirty-one of the Complaint.
32. Defendant Bodgan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph thirty-two of the Complaint.

The False Identification of Mr. Charles

33. Defendant Bodgan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph thirty-three of the Complaint.
34. Defendant Bodgan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph thirty-four of the Complaint.
35. Defendant Bodgan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph thirty-five of the Complaint.
36. Defendant Bodgan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph thirty-six of the Complaint.
37. Defendant Bodgan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph thirty-seven of the Complaint.
38. Defendant Bodgan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph thirty-eight of the Complaint.
39. Defendant Bodgan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph thirty-nine of the Complaint.
40. Defendant Bodgan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph forty of the Complaint.
41. Defendant Bodgan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph forty-one of the Complaint.
42. Defendant Bodgan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph forty-two of the Complaint.

43. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph forty-three of the Complaint.
44. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph forty-four of the Complaint.
45. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph forty-five of the Complaint.
46. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph forty-six of the Complaint.
47. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph forty-seven of the Complaint.
48. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph forty-eight of the Complaint.
49. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph forty-nine of the Complaint.
50. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph fifty of the Complaint.
51. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph fifty-one of the Complaint.

The Forensic Investigation

52. Defendant Bogdan denies the first sentence of paragraph fifty-two. Answering further, Defendant Bogdan admits that he was a Boston police criminalist, was assigned to the case, and he conducted tests on the sheet and robe. Answering further, Defendant Bogdan denies that he determined the stains were seminal in origin. Answering further, Defendant Bogdan admits that the stains came from a Type “O” secretor.
53. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in sentence one of paragraph fifty-three of the Complaint. Answering further, Defendant Bogdan admits the remaining allegations contained in paragraph fifty-three of the Complaint.

54. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph fifty-four of the Complaint.
55. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in sentence one of paragraph fifty-five of the Complaint. Answering further, Defendant Bogdan denies that tests confirmed stains on the bedsheet and robe were seminal in origin. Answering further, Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in sentence three of paragraph fifty-five of the Complaint. Answering further, Defendant Bogdan denies that false testimony was elicited from him regarding the stains on the bedsheet and robe. Answering further, Defendant Bogdan is without knowledge or information sufficient to form a belief as to whether Campo argued the rapist did not ejaculate with the sole intent to injure Mr. Charles.
56. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph fifty-six of the Complaint.

Trial, Conviction, Incarceration and Exoneration

57. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph fifty-seven of the Complaint.
58. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph fifty-eight of the Complaint.
59. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph fifty-nine of the Complaint.
60. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph sixty of the Complaint.
61. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph sixty-one of the Complaint.
62. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph sixty-two of the Complaint.
63. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph sixty-three of the Complaint.

- 64. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph sixty-four of the Complaint.
- 65. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph sixty-five of the Complaint.
- 66. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph sixty-six of the Complaint.

The City of Boston's Acquiescence to Police Misconduct

- 67. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph sixty-seven of the Complaint.
- 68. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph sixty-eight of the Complaint.
- 69. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph sixty-nine of the Complaint.
- 70. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph seventy of the Complaint.
- 71. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph seventy-one of the Complaint.
- 72. Paragraph seventy-two contains a legal conclusion, and therefore no response is required. To the extent an answer is required, Defendant Bogdan is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph seventy-two of the Complaint.
- 73. Paragraph seventy-three contains a legal conclusion, and therefore no response is required. To the extent an answer is required, Defendant Bogdan is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph seventy-three of the Complaint.
- 74. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph seventy-four of the Complaint.

The Suffolk County District Attorney's Failure to Property Train Staff

75. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph seventy-five of the Complaint.

Damages

76. Paragraph seventy-six contains a legal conclusion, and therefore no response is required. To the extent an answer is required, it is denied.

CLAIMS

**Count I – 42 U.S.C. § 1983
Claims against Defendant Keough, Rufo,
Hanley, Johnson, Mulligan, Zanini and Campo
For Unduly Suggestive Identification Procedures**

Defendant Bogdan does not answer the allegations contained in paragraphs seventy-seven through eighty-one of the Complaint, as said allegations are directed against another Defendant.

**Count II – 42 U.S.C. § 1983
Due Process Claims against Defendants Keough,
Bogdan and Campo For Failing to Disclose Evidence;
And For Fabricating Evidence, and Due Process
Claim Against Defendant Keough for Failure to Investigate**

82. Defendant Bogdan realleges and incorporates his answers to paragraphs one through eighty-one of the Plaintiff's Complaint as though fully set forth herein.

Fourteenth Amendment Brady Claims

83. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph eighty-three of the Complaint.
84. Defendant Bogdan denies the allegations contained in paragraph eighty-four of the Complaint.
85. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in sentence one and subsection A through D of paragraph eighty-five of the Complaint. Answering further, Defendant Bogdan denies the allegations contained in subsection E of paragraph eighty-five of the Complaint.

86. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph eighty-six of the Complaint.
87. Defendant Bogdan states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph eighty-seven of the Complaint.
88. Defendant Bogdan states that paragraph eighty-eight is a legal conclusion, and therefore no response is required. To the extent paragraph eighty-eight requires an answer, it is denied.

**Count III – 42 U.S.C. § 1983
Conspiracy**

89. Defendant Bogdan realleges and incorporates his answers to paragraphs one through eighty-nine of the Plaintiff's Complaint as though fully set forth herein.
90. Defendant Bogdan denies the allegations contained in paragraph ninety of the Complaint.
91. Defendant Bogdan denies the allegations contained paragraph eighty-seven of the Complaint.
92. Defendant Bogdan states that paragraph ninety-two is a legal conclusion, and therefore no response is required. To the extent paragraph ninety-two requires an answer, it is denied.

**Count IV – 42 U.S.C. § 1983
Claims against Defendants Keough, Campo
Bodgan and Hanley Johnson for Malicious Prosecution**

Defendant Bogdan does not answer the allegations contained in paragraphs ninety-three through ninety-nine as this Count was dismissed against Defendant Bogdan.

**Count V – 42 U.S.C. § 1983
Monell Claim against the City of Boston**

Defendant Bogdan does not answer the allegations contained in paragraphs 101 through 103 of the Complaint, as said allegations are directed against another Defendant.

**Count VI – 42 U.S.C. § 1983
Supervisory Liability Claims against John Doe and Jane Doe,
Supervisors in the Boston Police Department**

Defendant Bogdan does not answer the allegations contained in paragraphs 104 through 106 of the Complaint, as said allegations are directed against another Defendant.

Count VII – 42 U.S.C. § 1983
Monell Claims against Defendants Suffolk County
And the Suffolk County District Attorney's Office
For Failure to Train and Supervise Prosecutors

Defendant Bogdan does not answer the allegations contained in paragraphs 107 through 108 of the Complaint, as said allegations are directed against another defendant.

Count VII – State Tort Law
Claims against Defendants Keough, Mulligan, Rufo,
Campo, Hanley Johnson, Bogdan and Zanini For Malicious Prosecution

Defendant Bogdan does not answer the allegations contained in paragraphs 109 through 110 as this Count was dismissed against Defendant Bogdan.

CLAIMS FOR DAMAGES

- 111. Paragraph 111 contains a legal conclusion, and therefore no response is required. To the extent an answer is required, it is denied.
- 112. Paragraph 112 contains a legal conclusion, and therefore no response is required. To the extent an answer is required, it is denied.
- 113. Paragraph 113 contains a legal conclusion, and therefore no response is required. To the extent an answer is required, it is denied.

AFFIRMATIVE DEFENSES

First Defense

Defendant Bogdan states that no act or omission by him was a proximate cause of damages allegedly sustained by the Plaintiff.

Second Defense

Defendant Bogdan states that his acts and conduct were performed according to, and protected by, law and/or legal process, and that therefore the Plaintiff cannot recover.

Third Defense

Defendant Bogdan states that at all times pertinent to this action, he acted in good faith and belief that all actions were in accordance with the laws of the Commonwealth of Massachusetts and United States of America.

Fourth Defense

Defendant Bogdan states that the Plaintiff has failed to state a claim upon which relief can be granted.

Fifth Defense

Defendant Bogdan states that others for whose conduct the Defendant is not responsible caused any alleged injury or damage suffered by the Plaintiff.

Sixth Defense

Defendant Bogdan states that Plaintiff's Brady claim fails because by itself, a criminalist's failure to comply with Brady does not constitute a violation of an accused's constitutional rights.

Seventh Defense

Defendant Bogdan states that he is entitled to qualified immunity.

Eighth Defense

Defendant Bogdan states that he is not liable for any damages to the Plaintiff, including punitive damages.

Ninth Defense

Defendant Bogdan states that the Plaintiff has failed to name individuals or entities that are indispensable to the resolution of this suit.

JURY CLAIM

Defendant Bogdan hereby demands a trial by jury on all counts and causes of action.

Respectfully submitted,
DEFENDANT STANLEY BOGDAN
Merita A. Hopkins, Corporation Counsel
By his attorneys:

/s/ Amy E. Ambarik
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